

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1167 of 2001

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

HOTEL LIVE INN STYLE PVT.LTD.

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

1. Special Civil Application No. 1167 of 2001
MR GM JOSHI for Petitioner No. 1
MR DR DAVE FOR MR AD OZA for Respondents No.1 & 2
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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/10/2001

ORAL JUDGEMENT

#. Heard the learned advocates.

#. The petitioner before this Court is a Hotel which

challenges the decision of the Appellate Committee of the Gujarat Electricity Board, the respondent herein (hereinafter referred to as 'the Board'), rendered on 13th October, 2000 in Appeal No.A-77/2000.

#. It appears that on 29th June, 1999, the petitioner lodged a police complaint with regard to certain miscreants (not named before the police) having broken the electrical meter of the petitioner-Hotel. The petitioner also informed the Board about the said incident and of police complaint. On 9th July, 1999, the officers of the Board visited the premises of the petitioner and inspected the meter installed by the Board. Admittedly, the wooden box housing the meter and the Metal Meter Box were found to have been broken open. The meter wires were cut and retwisted and some more damage was also found. On the basis of such damage found, it was inferred that the petitioner had illegally extracted the power. A supplementary bill for the sum of Rs.11,05,209=46 was issued upon the petitioner. Feeling aggrieved, the petitioner preferred the above Appeal No.A-77/2000 before the Appellate Committee. The Appellate Committee, after hearing the petitioner, partly allowed the appeal. Pursuant to the decision of the Appellate Committee, a revised bill for the sum of Rs.5,09,461=66 has been issued upon the petitioner. Feeling aggrieved, the petitioner has preferred the present petition.

#. Mr.Joshi has submitted that indisputably certain miscreants had resorted to vandalism and had broken open and damaged the electrical meter installed in the petitioner's premises. A police complaint in this respect was lodged on the very day and even the officers of the Board were informed. Nonetheless, the Appellate Committee has come to the conclusion that the petitioner was guilty of theft of energy. The finding recorded by the Appellate Committee is erroneous and requires to be interfered with.

#. In answer to the notice issued by this Court, the Board has appeared through learned advocate Mr.DR Dave. Mr.Dave has relied upon the laboratory test report and the finding recorded by the Appellate Committee. He has drawn attention to the nature of tampering done with the meter and has submitted that such damage could not have been done by some miscreants breaking open the meter. The nature of damage indicates that the person concerned should have done it deliberately. Hence, the plea of vandalism can not be believed. The petitioner's plea that all the electrical appliances may not be running

continuously, has been accepted and necessary deductions have been granted.

#. I agree with the contention raised by Mr.Dave. The nature of tampering done to the meter is obviously the one which could not have been done by some miscreants breaking open the meter. A deliberate attempt has been made to cut the meter wires and to retwist them, so as to avoid metering of the electrical energy. The finding recorded by the Appellate Committee is based on sound reasoning and can not be said to be erroneous. No interference is, therefore, warranted. The petition is dismissed. Notice is discharged. Ad interim relief is vacated.

#. At the request of learned advocate Mr.Joshi, it is directed that the petitioner be given three months time from today to pay the outstanding amount alongwith the delay payment charges, on condition that the petitioner pays regular bills regularly.

5th October, 2001. (Ms. R.M.Doshit, J.)

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